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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/008, 947	01/20/98	MILLS	R 911322US

<input type="checkbox"/>	IM22/0524	<input type="checkbox"/> EXAMINER
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FARKAS & MANELLI  
2000 M STREET, N.W.  
7TH FLOOR  
WASHINGTON DC 20036-3307

KALAFUT, S

<input type="checkbox"/> ART UNIT	<input type="checkbox"/> PAPER NUMBER
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1745

*7*

DATE MAILED: 05/24/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/008,947</b>	Applicant(s)	Mills
	Examiner <b>Stephen J. Kalafut</b>	Group Art Unit <b>1745</b>	

Responsive to communication(s) filed on \_\_\_\_\_.

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

#### Disposition of Claims

Claim(s) 1-14 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1-14 is/are rejected.

Claim(s) \_\_\_\_\_ is/are objected to.

Claims \_\_\_\_\_ are subject to restriction or election requirement.

#### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-14 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. Applicant's claimed invention is drawn to a fuel cell which produces an increased binding energy hydride ion, from hydrogen such as atomic hydrogen with an increased binding energy. This form of hydrogen, where the orbital of the electron has collapsed to a size below normal, is called "hydrino" by applicant. However, according to applicant's own statements, hydrino atoms cannot combine with other atoms, except one other hydrino, and are so small that they pass through whatever container they are formed in. Thus, any storage means for hydrino is, by applicant's own admission, an impossibility. So would any device using stored hydrino gas. See the *Institute for Social Ecology* Newsletter issue of December 22, 1998, page 2; and the *Animal Rights Resource Site* interview of the present applicant, February 2, 1998, pages 2 and 3; both articles written by Art Rosenblum.

3. Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As stated above, the present invention is based on the use of a type of hydrogen which the applicant has admitted cannot react with anything except one additional atom of itself, and

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cannot be stored in any container. Since this type of hydrogen can neither be stored nor reacted with another substance, the skilled artisan cannot be enabled to use this type of hydrogen or any device, such as a fuel cell, therewith.

4. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims recite that the hydrogen is reacted as a cathode, which is contrary to the standard nomenclature in the fuel cell art, where hydrogen is understood to be a fuel and reactable at an anode. Claim 3 is considered incomplete because how the battery interacts with the other parts of the fuel cell is not recited. The term “binding energy”, as presently used in reference to a single atom, is confusing because bonds occur between two atoms.

5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

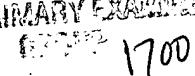
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lyons (US 3,300,345) discloses a fuel cell used with a coulometer cell. Caesar (US 3,377265) discloses a fuel cell using hydrogen. Nelson (US 4,512,966) discloses processes for producing hydrides. Gupta *et al.* (US 4,986,887) disclose a method for generating hydrogen.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Kalafut whose telephone number is (703) 308-0433. If attempts to reach the examiner are unsuccessful, his supervisor, Maria Nuzzolillo, may be reached at (703) 305-3776. The Technology Center receptionist may be reached at (703) 308-0661.

sjk

May 21, 1999

  
STEPHEN KALAFUT  
PRIMARY EXAMINER  
 1700